

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

FRANK BROWN, JR., #42213

PLAINTIFF

VERSUS

CIVIL ACTION NO. 4:09cv80-TSL-LRA

LAUDERDALE COUNTY DETENTION FACILITY,
SHERIFF BILLY SOLLIE, MAJOR PHILLIP FRAZIER
and MEDICAL STAFF OF LCDF

DEFENDANTS

ORDER

Upon consideration of the complaint [1] and response [8] filed in the above entitled action the court makes the following findings and conclusions. The plaintiff is presently incarcerated at the Lauderdale County Detention Center, Meridian, Mississippi. He initially named the Lauderdale County Detention Facility (LCDF), Sheriff Billy Sollie, Major Phillip Frazier and the Medical Staff of LCDF as defendants in this civil action.

On June 29, 2009, this court ordered [5] the plaintiff to file a written response and provide additional information concerning his claims. The plaintiff complied by filing his response [8] on July 6, 2009, and providing the names of the individual members of the Medical Staff who failed to provide him dental care.

It is clear that a complaint filed pursuant to § 1983 is not cognizable absent the defendant's depriving the plaintiff of some right secured to the plaintiff by the Constitution or the laws of the United States. See Baker v. McCollan, 443 U.S. 137, 140 (1979) (first inquiry in any section 1983 suit is whether the

defendant has deprived the plaintiff of a right secured by the Constitution).

In his response [8], the plaintiff states that the Medical Staff of LCDF who denied him dental care are as follows: Teri Stewart, nurse; Nurse Shelia, Nurse Butha and Nurse Roy. He further states that defendants Sheriff Sollie and Major Frazier have been notified of his dental problems and have failed to respond.

The order [5] entered on June 29, 2009, informed the plaintiff that the Lauderdale County Detention Facility was not a legal entity and directed him to include in his response if he wished to pursue this civil action against Lauderdale County a statement to that effect. Having reviewed the response [8], this court finds no such statement. Therefore, because the plaintiff cannot maintain this civil action against the Lauderdale County Detention Facility, it will be dismissed. Additionally, this court finds that the defendant referred to as the Medical Staff of LCDF is like naming a John Doe and now that the plaintiff has provided the names of the individuals of the Medical Staff, the defendant referred to as the Medical Staff of LCDF will also be dismissed. Accordingly, it is

ORDERED

1. That Lauderdale County Detention Facility and the Medical Staff of LCDF be dismissed with prejudice as defendants in this action.

2. That the clerk add as defendants Teri Stewart, nurse;

Shelia "Last name unknown", nurse; Burtha "Last name unknown", nurse and Roy "Last name unknown", nurse, as indicated in the plaintiff's response [8] filed July 6, 2009.

3. That the plaintiff within 20 days of the date of this order shall provide this court with the civil action number of every civil action or appeal which the plaintiff has had dismissed on the grounds that it is frivolous, malicious or fails to state a claim upon which relief may be granted. Plaintiff shall also provide the name of the court and name(s) of defendant(s) in each civil action identified.

4. That the United States District Clerk is hereby directed to issue summons to the defendant,

SHERIFF BILLY SOLLIE
Sheriff's Department
L.C.D.C.
2001 5th Street
Meridian, MS 39301

MAJOR PHILLIP FRAZIER
Sheriff's Department
L.C.D.C.
2001 5th Street
Meridian, MS 39301

TERI STEWART, Nurse
L.C.D.F. - Medical Staff
2001 5th Street
Meridian, MS 39301

NURSE SHELIA
L.C.D.F. - Medical Staff
2001 5th Street
Meridian, MS 39301

NURSE BUTHA

L.C.D.F. - Medical Staff
2001 5th Street
Meridian, MS 39301

NURSE ROY
L.C.D.F. - Medical Staff
2001 5th Street
Meridian, MS 39301

requiring a response to the complaints. The clerk is directed to attach a copy of the complaint [1] filed June 17, 2009, order [5] entered on June 29, 2009, response [8] filed July 6, 2009, and the instant order to the summons that will be served on the named defendants. The United States Marshal shall serve the same pursuant to 28 U.S.C. § 1915(d).

5. That the defendant file his answer or other responsive pleading in this cause in accordance with the *Federal Rules of Civil Procedure* and the Local Rules of this court.

6. That subpoenas shall not be issued except by order of the court. The United States District Clerk shall not issue subpoenas upon request of the pro se litigant, but shall instead forward the request to the Magistrate Judge assigned to this cause for review. The plaintiff shall submit all requests for the issuance of subpoenas to the Magistrate Judge's office for review.

The plaintiff should understand that this order allowing process to issue against the above named defendant does not reflect any opinion of this court that the claims contained in the complaint will or will not be determined to be meritorious.

It is the plaintiff's responsibility to prosecute this case.

Failure to advise this court of a change of address or failure to comply with any order of this court will be deemed as a purposeful delay and contumacious act by the plaintiff and may result in the dismissal of this case.

SO ORDERED, this the 7th day of July, 2009.

/s/Tom S. Lee
UNITED STATES DISTRICT JUDGE